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# **EXHIBIT 10**

March 1, 2019

**VIA EMAIL - PATRICK.PULUPA@WATERBOARDS.CA.GOV**

Mr. Patrick Pulupa, Executive Officer  
Regional Water Quality Control Board, Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Re: Objection to Lack of Formal Hearing Procedures  
Client-Matter No. 43657.00000

Dear Mr. Pulupa:

On February 25, 2019, Valley Water Management Company ("Valley Water") received notice of a hearing on a proposed Cease and Desist Order (CDO) for Valley Water's McKittrick 1 and 1-3 Facilities. Unlike the CDO process for Valley Water's Edison District facilities in 2015, this CDO did not designate parties or propose formal Hearing Procedures. Since the tentative CDO proposes to potentially require these McKittrick facilities to close in slightly more than one year after the hearing, we believe that formal hearing procedures should be drafted and issued, and a Prosecution Team should be specified as well as an Advisory Team.

Valley Water also requests that several hours be allotted at the proposed hearing to allow Valley Water to present evidence and testimony, cross-examine adverse witnesses, and provide a closing statement. Any shorter period would not be adequate to address the complicated factual and legal background for these facilities, which have been in existence for nearly 60 years. As you know, due process requires that adjudicatory hearings must be fair and provide a meaningful opportunity for the parties to be heard. (*See Matthews v. Eldridge*, 424 U.S. 319, 333 (1972); Cal. Gov't Code §11425.10(a)(1).)

Under California Code of Regulations, Title 23, section 648.7, Valley Water objects that the hearing notice was set as an informal hearing and not set up as a formal hearing given the high stakes at issue and, therefore, contained no dates for submission of evidence by the Prosecution Team, for evidence to be submitted in response by Valley Water, for objections to submitted evidence, for rebuttal evidence, for decisions on designated party status, or for rulings on evidentiary objections. *See accord* 23 C.C.R. §648.5. The possibility of requiring a facility to shut down should always require a formal adjudicative proceeding. 23 C.C.R. §648(a).

We look forward to hearing back from you soon on this important matter.

Respectfully submitted,

DOWNEY BRAND LLP



Melissa A. Thorne

Special Counsel for  
Valley Water Management Company

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